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| 10/802,499      | 03/16/2004  | Peter E. Bryant      | PEB I CON           | 3646             |

7590 02/28/2005

Aaron Passman  
9632 Windom Point Avenue  
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EXAMINER

TO, TOAN C

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3616

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/802,499

Applicant(s)

BRYANT, PETER E.

Examiner

Toan C To

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 6, 7 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3-16-2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. In reviewing the preliminary amendment filed March 16, 2004, it is noted that applicant has canceled the original claims 2-20, but applicant has incorrectly added new claims 2-10. 37 CFR. §1.126 states that:

When claims are added, they must be numbered by the applicant consecutively beginning with the number next following the highest numbered claim previously presented.

In this case, since claims 2-20 have been canceled, then the first new added claim must be numbered with the number next following the highest numbered claims. Therefore, applicant is required to correct new added claims 2-10 as indicated below:

New added claim 2 must be renumbered as "claim 21"

New added claim 3 must be renumbered as "claim 22"

New added claim 4 must be renumbered as "claim 23"

New added claim 5 must be renumbered as "claim 24"

New added claim 6 must be renumbered as "claim 25"

New added claim 7 must be renumbered as "claim 26"

New added claim 8 must be renumbered as "claim 27"

New added claim 9 must be renumbered as "claim 28"

New added claim 10 must be renumbered as "claim 29"

For purpose of examining the application on merit without confusing, applicant is required to submit new claims, which are renumbered as indicated above.

### ***Election/Restrictions***

2. Applicant's election with traverse of Species 8 (figure 11), claims 1-10, in the reply filed on November 26, 2004 is acknowledged. The traversal is on the ground(s) that at least claims 1, 2, and 10 are generic. The examiner agrees that claims 1, 2 and 10 are generic.
3. Claim 6 is withdrawn from further consideration by the examiner as being drawn to a nonelected species. In this case, the elected species 8, figure 11 does not show the claimed subject matter as to "each respective rebound control spring disposed within the concentric volume".
4. Claim 7 is withdrawn from further consideration by the examiner as being drawn to a nonelected species. In this case, the elected species 8, figure 11 show the load spring is an air spring but not "coil load spring" as recited in the claim.
5. Claim 9 is withdrawn from further consideration by the examiner as being drawn to a nonelected species. In this case, the elected species 8, figure 11 does not show the claimed subject matter as to "torsion spring".

### ***Drawings***

6. The amendment drawings filed March 16, 2004 are objected to under 37 CFR 1.83(a) because figures 1, 3, 4, 5, 6, 7, 8, 11 fail to show reference characters "15", "16" and "17" as described in the specification. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the

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appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Double Patenting***

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double

patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1-2, 4-5, and 10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, 4, 5-9 of U.S. Patent No. 6,761,372. Although the conflicting claims are not identical, they are not patentably distinct from each other because the following reasons:

Claim 1 of U.S. Patent No. 6,761,372 read on claims 1-2 of the instant application.

Claim 3 of U.S. Patent No. 6,761,372 read on claim 4 of the instant application.

Claim 4 of U.S. Patent No. 6,761,372 read on claim 5 of the instant application.

Claim 5-9 of U.S. Patent No. 6,761,372 read on claim 10 of the instant application.

### ***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-5, and 8, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hickman (U.S. 4,574,707).

Hickman discloses a vehicle suspension system placed between a chassis (141) having a sprung weight and a plurality of wheel axle support (138) each carrying a portion of an unsprung weight, the suspension system comprising: a resilient load bolster (135) mounted between the chassis (141) and the wheel axle support (138) to carry the chassis (141) at a ride height relative to the wheel axle support (138), and a resilient member (136) affixed between each wheel axle support (138) and the chassis (141) for exerting increasing force there between as a function of the amount of rebound motion of the sprung weight away from the wheel axle support (138), the resilient member (136) mounted between the chassis and the wheel axle support (138) for initiating application of force during jounce motion for transition from support beyond the ride height.

As to claim 2, Hickman discloses a vehicle suspension system placed between a chassis (141) having a sprung weight and each of a plurality of wheel axle support (138) carrying unsprung weight, the vehicle suspension system at least operative to independently control motion between the chassis and each wheel axle support during jounce and rebound, the vehicle suspension system including a plurality of load springs (135) having an elastic constant, each load spring (135) located between the chassis (141) and its respective wheel axle support (138), each of the plurality of respective load springs (135) for supporting the sprung weight of the chassis carried there on at a ride height relative to its respective wheel axle support and for substantially carrying the

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sprung weight during jounce motion of the chassis (141), each of the respective load springs (135) mounted to the chassis for flexing between the chassis and its respective wheel axle support for resisting motion of the chassis sprung weight under load and during jounce, the vehicle suspension system comprising: a rebound control spring (136) mounted to the chassis (141) and each wheel axle support for exerting increasing force to its respective wheel axle support (138) during rebound motion of the sprung weight of the chassis (141) away from its respective wheel axle support (138), each rebound control spring operatively mounted in opposition to its respective load spring for increasing resistance to chassis sprung weight rebound motion and to initiate the application of resistance to rebound motion of the chassis by transfer of the unsprung weight of each respective wheel axle support (138) through each rebound control spring (136) to the chassis upon motion of the sprung weight away from its respective wheel axle support (138), each respective rebound control spring (136) mounted to oppose the jounce motion of the load spring (136) to provide a transition between the end of jounce motion and the beginning of rebound motion as the rebound motion of the chassis (141) sprung weight is resisted by its respective wheel axle support (138).

As to claim 3, Hickman discloses a vehicle suspension system, wherein the rebound control spring (136) is elastic to stretch sufficiently between the chassis (141) and its wheel axle support (138) even when the load spring (135) is compressed to its maximum load capacity.

As to claim 4, Hickman discloses a vehicle suspension system wherein therein the chassis has a substantially rectangular footprint having four wheels disposed



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generally to carry the corners thereof (see figure 1) with each corner having its wheel axle support (138) moveably carried by its respective load spring (135) and its respective rebound spring (136) to resist jounce and rebound at each corner respectively.

As to claim 5, Hickman discloses a vehicle suspension system, wherein each of the respective rebound control springs (136) includes a coil spring having sufficient jounce and rebound motions to maintain connection with the chassis and its respective wheel axle support (138) even when its respective load spring (135) is compressed to its maximum load position during jounce.

As to claim 8, Hickman discloses a vehicle suspension system wherein the rebound control spring (136) is mounted to the chassis (141) and its respective wheel axle support (138) for elastically tethering between the chassis and its respective wheel axle support (138) to maintain connection there between even when the load spring (135) is beyond its maximum load capacity.

As to claim 10, Hickman discloses a method of resisting roll with a vehicle suspension system placed between a chassis (141) having a sprung weight and a plurality of wheel axle support (138) each carrying a portion of an unsprung weight, the vehicle suspension system operative along a line of travel between the chassis (141) and the wheel axle support (138) during jounce and rebound, the method having steps comprising: applying loads to the wheel axle support (138) with a resilient load bolster (135) having an elastic constant  $K$ , the resilient load bolster (135) mounted to the chassis (141); flexing the resilient load bolster (135) with respect to the wheel axle

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support (138) with movement along the line of travel under load and during jounce; carrying with the resilient load bolster (135) when preloaded the chassis at a preset ride height relative to the wheel axle support; connecting a suspension platform to the wheel axle support (138); attaching the suspension platform (139) for bearing against the resilient load bolster (135); reciprocating the suspension platform (139) for along the line of travel during jounce and rebound; attaching a resilient member (136) having an elastic constant to the suspension platform (139) or and to the chassis for exerting increasing force on the chassis along the line of travel and against the rebound motion of the sprung weight of the chassis (141) applying increasingly less rebound force to the resilient load bolster (135) during jounce through and beyond the preset ride height as the resilient member (136) resists the rebound motion of sprung weight away from the wheel axle support (138); operating the resilient member (136) in opposition to the resilient load bolster (135); resisting the rebound motion of the sprung weight with motion of the unsprung weight during rebound of the unsprung weight away from the chassis, and mounting the resilient member to oppose at least the initiation of jounce for acting rebound motion of the chassis away from the wheel axle support.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan C To whose telephone number is (703) 306-5951. The examiner can normally be reached on Mon-Fri (8:00-5:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTo  
February 15, 2005

  
PAUL N. DICKSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600  
2/22/05